

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

vs.

CRIMINAL NO. 05-10053-NMG

TYRONE BATTLE

DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND STATEMENTS

The defendant Tyrone Battle moves this Court to suppress physical evidence seized from apartment #2, 15 Dunlap Street, Dorchester, Massachusetts, and statements made by him during and after his arrest by Boston police officers. The physical evidence in this case consists of a pistol and ammunition recovered from a bureau drawer in a bedroom of the apartment. The defendant makes this motion pursuant to the Fourth and Fifth Amendments to the United States constitution and rule 12(b)(3) of the Federal Rules of Criminal Procedure.

As grounds for this motion, the defendant submits the following:

1. The police made a warrantless, illegal entry into the apartment where the defendant was visiting and thereafter seized him. The defendant had a reasonable expectation of privacy in the place where he was visiting. The entry was not supported by probable cause and exigent circumstances. Therefore all evidence recovered that flowed from the illegal entry into the apartment must be suppressed.
2. The defendant made statements subsequent to being advised of his Miranda

rights, which were tainted by the prior illegal seizure. These statement were obtained in violation of his Fifth Amendment rights and were the so-called “fruit of the poisonous tree,” they must be suppressed.

Request for Evidentiary Hearing and Argument

The defendant requests an evidentiary hearing and oral argument on this motion.

Respectfully submitted,
TYRONE BATTLE
By his attorney

/s/

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